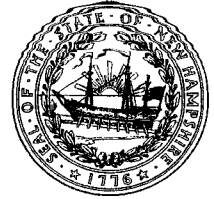




The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

**LETTER OF DEFICIENCY
WET 06-100**

August 30, 2006

Samuel Kershaw Trustee Kershaw Realty Trust
185 Rockingham Rd
Derry, NH 03038

RE: NH DES Wetlands Compliance File No. 2006-01546 187 Rockingham Rd, Derry

Dear Sir or Madam:

On August 9, 2006, personnel from the Department of Environmental Services ("DES") conducted an inspection of the above referenced property, more specifically referenced on Town of Derry Tax Map 03 as Lot 03087 (the "Property"). The purpose of the inspection was to determine compliance with RSA 482-A and NH Code of Admin. Rules Env-Wt 100-800.

During the inspection the following deficiencies were documented:

1. The slopes of the stock pile fill were not stabilized and the siltation fence was ineffective,
2. The sedimentation pond was filled with sediment and was ineffective;
3. The natural pond was turbid and accumulated sediment was observed in the pond from the stockpiled fill;

In response, you are requested to take the following actions:

1. **Immediately** retain qualified professionals to develop and implement remediation plans as specified below. Submit their name, address and phone number to DES by **September 8, 2006**
2. **BY SEPTEMBER 29, 2006**, submit an Erosion and Sediment Control Plan prepared by a certified erosion control specialist or other professional having experience with stormwater control ("the Plan") for approval to DES. Include in the Plan:
 - a. Provisions for permanent stabilization of the exposed stock piled fill and fill side slopes;
 - b. Provisions to eliminate sediment from leaving the Property;
 - c. A detailed description of the proposed construction sequence; and
 - d. An implementation schedule to carry out the work described in the Plan.
3. **BY SEPTEMBER 29, 2006** submit a wetland restoration plan prepared by a qualified wetland consultant which depicts existing conditions showing the topography of the property, and quantifies by field survey the current extent of disturbance in jurisdictional wetlands, and restoration of the impacted jurisdictional area as described below:
 - a. A plan with dimensions for the removal of the unpermitted fill in wetlands as quantified above and regrading the disturbed areas to original contours;
 - b. Equipment and methods of erosion control (silt fence, hay bales, etc.);
 - c. Construction sequence and timetable for accomplishing remediation no later than **October 15, 2006**;
4. Execute the restoration plan immediately upon receipt of the restoration plan approval from the DES Wetlands Bureau.

NH DES Wetlands Complaint File No. 2006-1546
LETTER OF DEFICIENCY
WET 06-100
PAGE 2 OF 2

RSA 482-A, the New Hampshire Wetlands law, was enacted to protect and preserve wetlands and surface waters from unregulated despoliation. Prior to dredging, filling, or construction in and adjacent to wetlands or surface waters, an individual is required to obtain a permit. If work is done without a permit, this is considered a violation of RSA 482-A. Failure to respond to this Letter of Deficiency in a timely and complete manner may be construed as noncompliance by the receiving party.

DES personnel may conduct another inspection at a later date to determine whether you have come into and are maintaining full compliance with the applicable statute and rules.

Issuance of this letter shall not preclude further enforcement by DES. Failure to comply with RSA 482-A will result in enforcement by DES, including but not limited to the issuance of fines, administrative orders, or referral to the New Hampshire Office of the Attorney General for prosecution of civil or criminal penalties. If an order is issued to you, it may also be recorded with the Registry of Deeds as an encumbrance against your property.

All documents submitted in response to this Letter of Deficiency should be addressed as follows:

Eben M. Lewis
Compliance Investigator
NH DES Wetlands Bureau
Pease Field Office
50 International Drive, Suite 200
Portsmouth, NH 03801

Should you have any questions regarding this letter, or wish to arrange a meeting, please contact Eben M. Lewis at 603.559.1515 or via email at elewis@des.state.nh.us.

Sincerely,



Frank D. Richardson, Ph.D.
Senior Wetlands Inspector
Southeast Region Supervisor
NH DES Wetlands Bureau

FDR/eml

CERTIFIED MAIL 7002 2410 0001 6279 1451

cc: Rene Pelletier, Asst. Director, Water Division
Gretchen R. Hamel, Administrator, DES Legal Unit
Tracey Boisvert, DES Wetlands Compliance Supervisor
Robert Mackey, Code Enforcement Director, Derry
Derry Conservation Commission
Derry Board of Selectmen
USACOE